

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: James A. Orlando II
Nicole M. Orlando

Debtor(s)

Bayview Loan Servicing as servicer for The Bank of
New York Mellon FKA The Bank of New York As
Trustee For the CertificateHolders of CWALT, INC.,
Alternative Loan Trust 2004-24CB, Mortgage Pass
Through Certificates, Series 2004-24 CB

Movant

v.

James A. Orlando II
Nicole M. Orlando

Respondent(s)

and

Natalie Lutz Cardiello Esq., Trustee

Additional Respondent

BK. NO. 18-23134 GLT

CHAPTER 7

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Date: December 3, 2018

/s/ James C. Warmbrodt, Esquire

James C. Warmbrodt, Esquire

jwarmbrodt@kmlawgroup.com

Attorney I.D. No. 42524

KML Law Group, P.C.

701 Market Street, Suite 5000

Philadelphia, PA 19106

Phone: 412-430-3594

Attorney for Movant/Applicant

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CHAPTER 7

**MOTION OF BAYVIEW LOAN SERVICING AS SERVICER FOR THE BANK OF NEW YORK
MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS
OF CWALT, INC., ALTERNATIVE LOAN TRUST 2004-24CB, MORTGAGE PASS THROUGH
CERTIFICATES, SERIES 2004-24 CB
FOR RELIEF FROM THE AUTOMATIC STAY
UNDER SECTION 362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, KML Law Group, P.C., hereby requests a termination of the Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor(s).

1. Movant is Bayview Loan Servicing as servicer for Bayview Loan Servicing as servicer for The Bank of New York Mellon FKA The Bank of New York As Trustee For the CertificateHolders of CWALT, INC., Alternative Loan Trust 2004-24CB, Mortgage Pass Through Certificates, Series 2004-24 CB.

2. Debtor(s), James A. Orlando II and Nicole M. Orlando, is/are the owner(s) of the Property at 5515 2nd Avenue, Pittsburgh, PA 15207 ("Property").

3. Movant is the holder of a mortgage dated September 13, 2004 in the original principal amount \$67,500.00, which is secured by the Property. Said mortgage was recorded on September 20, 2004 at Instrument Number 2004-181142. The mortgage was subsequently assigned to Movant by way of Assignment of Mortgage recorded on December 29, 2016 on Book 47403 at Page 250 in Allegheny County.

4. Movant has instituted or wishes to institute foreclosure proceedings on the Mortgage because of Debtors' failure to make the monthly payment required under the terms of the Mortgage.

5. As of November 19, 2018, the payoff due on the Mortgage is **\$76,426.89**.

6. According to Debtors' schedules, the fair market value of the property is **\$16,000.00**.

7. Debtor(s) has/have failed to make the monthly payments of \$664.81 for the months of October 2016 through November 2016, \$670.30 for the months of December 2016 through May 2017, \$660.43 for the months of June 2017 through May 2018, \$639.95 for the months of June 2018 through November 2018.

8. According to the Statement of Intention filed by the Debtors, the subject property is being surrendered. A copy of the Statement of Intention is attached hereto as Exhibit "A"

9. The amount necessary to reinstate the loan is **\$17,116.28**.

10. The Senior Lien Holders on the Property are none.

11. The Junior Lien Holders on the Property are none.

12. The foreclosure proceeding filed or to be instituted were stayed by the filing of the instant Chapter 7 Petition.

13. The debtor(s) has/have no or inconsequential equity in the Property.

14. Movant has cause to have the automatic stay terminated so as to permit Movant to pursue its rights and remedies under the subject loan documentation.

15. Defendant, Natalie Lutz Cardiello Esq. is the Trustee appointed by the Honorable Court.

16. This motion and the averments contained therein do not constitute a waiver by the Moving Party of its right to seek reimbursement of any amounts not included in this motion, including fees and costs, due under the terms of the mortgage and applicable law.

WHEREFORE, Movant respectfully requests that this Court enter an Order modifying the Automatic Stay under Section 362 with respect to the Property as to permit Movant to foreclose its Mortgage and allow Movant or any other purchaser at Sheriff's Sale to take legal action for enforcement of its right to possession of the Property.

Date: December 3, 2018

/s/ James C. Warmbrodt, Esquire
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